

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

BOARD OF COUNTY COMMISSIONERS)
OF TILLMAN COUNTY,)

Plaintiff,)

v.)

CEPHALON, INC. et al.,)

Defendants.)

Case No. CIV-20-00161-PRW

ORDER

The Court has two pending motions asking for indefinite extensions of various Defendants’ deadlines to file pleadings responsive to the Plaintiff’s state court Petition (Dkt. 1-2) until after either this Court or the Judicial Panel on Multidistrict Litigation (JPML) decide whether this action should be transferred to MDL No. 2804 pending in front of Judge Dan A. Polster in the U.S. District Court for the Northern District of Ohio,¹ should remain in this Court, or should be remanded to state court.²

First, on February 28, 2020, Defendants CVS Health Corporation, CVS Pharmacy, Inc., Oklahoma CVS Pharmacy, L.L.C., and Walgreens Boots Alliance, Inc. (hereinafter “the Retail Pharmacy Defendants”) filed a Consent Motion for Extension of Time to Move, Answer, or Otherwise Respond to Petition (Dkt. 10), asking for an indefinite

¹ See generally *In re Nat’l Prescription Opiate Litig.*, MDL No. 2804 (J.P.M.L. created Dec. 5, 2017).

² See generally *Bd. of Cty. Comm’rs of Tillman Cty. v. Cephalon, Inc.*, No. CJ-2020-0002 (Okla. Dist. Ct., Tillman Cty. filed Jan. 17, 2020) (removed Feb. 24, 2020).

extension of their current deadlines to file answers or other responses to Plaintiff's state-court Petition (Dkt. 1-2) until 60 days following either this Court's ruling on any motion to remand that gets filed or the JPML's decision on any motion regarding transfer of this action, whichever is later. From the record in this case, it appears:

- (1) that Oklahoma CVS Pharmacy, L.L.C. was served with Plaintiff's state-court Petition (Dkt. 1-2) on February 3, 2020,³ making its answer or other response due February 23rd under section 2012(A)(1)(a) of the Oklahoma Pleading Code⁴;
- (2) that Defendant Walgreens Boots Alliance, Inc. was served with Plaintiff's state-court Petition (Dkt. 1-2) on February 4, 2020,⁵ making its answer or other response due February 24th⁶;
- (3) that Defendant CVS Health Corporation was served with Plaintiff's state-court Petition (Dkt. 1-2) on February 5, 2020,⁷ making its answer or other response due February 25th⁸; and

³ Special Appearance & Unopposed Mot. for Enlargement of Time to Answer, Move, or Otherwise Respond (Dkt. 1-42) ¶ 2, at 1.

⁴ Okla. Stat. tit. 12, § 2012(A)(1)(a) (2011).

⁵ Special Appearance & Unopposed Mot. for Enlargement of Time to Answer, Move, or Otherwise Respond (Dkt. 1-42) ¶ 3, at 2.

⁶ § 2012(A)(1)(a).

⁷ Special Appearance & Unopposed Mot. for Enlargement of Time to Answer, Move, or Otherwise Respond (Dkt. 1-42) ¶ 4, at 2.

⁸ § 2012(A)(1)(a).

(4) that Defendant CVS Pharmacy, Inc. has not been served.⁹

Upon removal of the case to this Court on February 24th, the Retail Pharmacy Defendants' answers or other responses to the state-court Petition (Dkt. 1-2) became due March 2nd under Rule 81(c)(2)(C) of the Federal Rules of Civil Procedure. The reason given for the requested extension is that all the parties wish to promote judicial economy. Plaintiff does not oppose the motion.

Second, on February 28th, Defendants Endo Health Solutions Inc.; Endo Pharmaceuticals Inc.; Cephalon, Inc.; Teva Pharmaceuticals USA, Inc.; Actavis LLC; Watson Laboratories, Inc.; Actavis Pharma, Inc. f/k/a Watson Pharma, Inc.; Johnson & Johnson; Janssen Pharmaceuticals, Inc.; Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc.; Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc.; Par Pharmaceutical, Inc.; Allergan plc f/k/a Actavis plc; Allergan Finance, LLC f/k/a Actavis, Inc. f/k/a Watson Pharmaceuticals, Inc.; Mallinckrodt plc; Mallinckrodt LLC; SpecGx, LLC; and Sandoz Inc. (hereinafter "Moving Defendants") filed an Unopposed Motion for Extension of Time to File Responsive Pleadings (Dkt. 11), asking for an indefinite extension of their current deadlines to file an answer or other response to Plaintiff's state-court Petition (Dkt. 1-2) until 45 days following either this Court's ruling on any motion to remand that gets filed or the JPML's decision on any motion regarding transfer of this action, whichever is later. From the record in this case, it appears Defendant Endo Pharmaceuticals Inc. was served with Plaintiff's state-court

⁹ Special Appearance & Unopposed Mot. for Enlargement of Time to Answer, Move, or Otherwise Respond (Dkt. 1-42) ¶ 5, at 2.

Petition (Dkt. 1-2) on February 3, 2020,¹⁰ making its answer or other response due February 23rd under section 2012(A)(1)(a) of the Oklahoma Pleading Code. It also appears that Defendants Allergan plc, Allergan Finance, LLC, and Mallinckrodt plc either have not been served or dispute whether service was proper.¹¹ The record is silent with regard to service upon the other Moving Defendants. Upon removal to this Court on February 24th, Defendant Endo Pharmaceuticals, Inc.'s answer became due March 2nd under Rule 81(c)(2)(C). This motion discloses that the action has already been tagged for transfer to the MDL.¹²

Upon review of the filing, and for good cause shown, this Court hereby **GRANTS** both unopposed motions. Accordingly, the Retail Pharmaceutical Defendants referenced above shall file their respective answers or otherwise respond to Plaintiff's state-court Petition (Dkt. 1-2) not later than 60 days following either (1) this Court's ruling on any motion to remand that gets filed, or (2) the JPML's entry of any decision granting a motion to vacate a conditional transfer order or otherwise finally denying transfer of this action, whichever is later. The Moving Defendants referenced above shall file their answers or otherwise respond to Plaintiff's state-court Petition (Dkt. 1-2) not later than 45 days following either (1) this Court's ruling on any motion to remand that gets filed, or

¹⁰ Service of Process Transmittal (Dkt. 1-1) at 1.

¹¹ Moving Defs.' Unopposed Mot. for Extension of Time to File Responsive Pleadings (Dkt. 11) at 1 nn.1-2.

¹² Defs. Endo Pharms. Inc. et al.'s Notice of Potential Tag-Along Actions (Dkt. 7181) at 1, *In re Nat'l Prescription Opiate Litig.*, MDL No. 2804 (J.P.M.L. filed Feb. 27, 2020); Schedule of Actions (Dkt. 7181-1) at 4-5, *In re Nat'l Prescription Opiate Litig.*, MDL No. 2804 (J.P.M.L. filed Feb. 27, 2020).

(2) the JPML's entry of any decision granting a motion to vacate a conditional transfer order or otherwise finally denying transfer of this action, whichever is later.

IT IS SO ORDERED this 3rd day of March, 2020.

A handwritten signature in black ink, appearing to read "P. Wyrick", is positioned above a horizontal line.

PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE